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Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN;  
ELFEGO RODRIGUEZ; AND JAMAL  
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK; AND DOES 1 THROUGH  
100, INCLUSIVE.

Defendants.

BURBANK POLICE DEPARTMENT; CITY OF  
BURBANK,

Cross-Complainants,

-vs-

OMAR RODRIGUEZ, and Individual,

Cross- Defendant

CASE NO.: BC 414 602

Complaint Filed: May 28, 2009

Assigned to: Hon. Joanne B. O'Donnell, Judge

**PLAINTIFFS' OPPOSITION TO  
DEFENDANT BURBANK'S SEPARATE  
STATEMENT IN SUPPORT OF MOTION  
TO COMPEL**

**Hearing:**

Date: June 29, 2010

Time: 10:00 a.m.

Place: 707 Wilshire Blvd., 46<sup>th</sup> Floor  
Los Angeles, CA 90017

Complaint filed: May 28, 2009

Trial Date: August 25, 2010

Plaintiffs' Omar Rodriguez, Steve Karakosian, Cindy Guillen Gomez, Elfego Rodriguez,  
Jamal Childs, submits their Opposition to Separate Statement of Items in Dispute in support of their  
Opposition to Defendant's Motion to Compel Plaintiffs to respond to Defendant's First Set of  
Special Interrogatories.

1 Defendant's First Set of Special Interrogatories to Plaintiff Omar Rodriguez:<sup>1</sup>

2 SPECIAL INTERROGATORY NO. 1:

3 IDENTIFY every person who witnessed anyone from or in the Burbank City Attorney's  
4 Office shred any document.

5 RESPONSE TO SPECIAL INTERROGATORY NO. 1:

6 Objection. Speculation. Foundation. Interrogatory violates Code of Civil Procedure  
7 §2030.060 (d). The responding party does not have personal knowledge sufficient to respond to  
8 this interrogatory and, pursuant to Code of Civil Procedure §2030.220 (c), information from other  
9 "natural persons or organizations" is "equally available to the propounding party." Discovery is  
10 ongoing and the responding party reserves the right to amend this response when more information  
11 becomes known.

12 FACTUAL AND LEGAL REASONS WHY RESPONSE SHOULD NOT BE COMPELLED TO  
13 SPECIAL INTERROGATORY NO. 1:

14 When answering interrogatories, "if the responding party does not have personal knowledge  
15 sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable  
16 and good faith effort to obtain the information by inquiry to other natural persons or organizations,  
17 except where the information is equally available to the propounding party." Cal Code Civ Proc §  
18 2030.220. The "reasonable and good faith effort" generally only obligates the responding party to  
19 provide "information from all sources under his or her control." Regency Health Servs. v. Superior  
20 Court, (1998) 64 Cal. App. 4th 1496, 1504.<sup>2</sup> As stated above, Plaintiffs have already  
21 acknowledged that they have no personal knowledge in this regard. On the other hand, a  
22 responding party is not under a duty to make inquiry from independent witnesses in order to answer  
23 interrogatories, as the other party is equally able to do so. Holguin v. Superior Court, (1972) 22

24  
25 <sup>1</sup>Defendants have listed each Plaintiff separately in their Separate Statement even though each  
26 set of interrogatory questions to each Plaintiff is identical. Plaintiffs' Separate Statement will only list  
27 responses to Omar Rodriguez's interrogatory answers, but the same factual and legal reasons why  
responses should not be compelled apply equally to Plaintiffs Cindy Guillen-Gomez, Steve Karagiosian,  
Elfego Rodriguez and Jamal Childs responses.

28 <sup>2</sup>Examples include a party's lawyer, agents or employees, family members, expert trial witnesses,  
etc. See Weil & Brown, *California Practice Guide : Civil Procedure Before Trial* (The Rutter Group  
2009 ¶ 8:1055-8:1059)

1 Cal. App. 3d 812 at 821. Here, requiring Plaintiffs to conduct an investigation or inquiry of  
2 independent witnesses into an rumored paper shredding scheme at the City Attorney's Office is well  
3 beyond the scope of Cal Code Civ Proc § 2030.220.

4 At his deposition Plaintiff Karagoisian stated that he did not know specifically where the  
5 document shredding rumors came from, or who spoke about the rumors (other than Sgt. Gunn, who  
6 is deceased). The source of any information was a vague "rumor around the station." (Exhibit "B"  
7 100:23). Any further inquiry would therefore require a general investigation of independent  
8 witnesses at the Burbank Police Department whose identities are unknown to the Plaintiffs.  
9 Therefore, any information that Plaintiffs could try and track down in the general rumor mill at the  
10 Burbank Police Department would be "equally available to the propounding party." Cal Code Civ  
11 Proc § 2030.220.<sup>3</sup>

12 Defendants are trying to force Plaintiffs to spend time and money tracking down rumors  
13 about a side-issue in the case so that Defendants attorneys won't have to. Plaintiffs have no duty to  
14 start such an investigation. (See, for example Holguin v. Superior Court, (1972) 22 Cal. App. 3d  
15 812 at 821: "[Plaintiffs] seem to take the position that the propounding of the interrogatories created  
16 a duty in defendants to start an investigation with the various persons in the coroner's office who  
17 participated in the autopsy and then to answer in accordance with the information thus gathered,  
18 even if the facts learned were antagonistic to their trial posture. We know of no principle of  
19 discovery law which thus compels a party not only to prepare his opponent's case, but also to  
20 stipulate away his own.")

21 Defendants have absolutely no basis for asserting that Plaintiffs know anything more than an  
22 unsubstantiated rumor that the Burbank City Attorney's Office has a practice of shredding  
23 documents. The document shredding is not an issue alleged in the Complaint. In fact, Plaintiffs  
24 have asserted that they have no information regarding any person who witnessed anyone shred a  
25 document, any documents which were shredded, any person who instructed a person to shred a  
26 document, any person who heard anyone from the City Attorney's Office give an instruction to

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27  
28 <sup>3</sup>The information would be more readily available to the propounding party; Plaintiffs should not  
be ordered to personally ask random employees of the Burbank Police Department about rumors and  
other issues relating to the instant matter.

1 shred a document, any occasion when anyone from or in the Burbank City Attorney's Office gave  
2 instruction to shred a document, and other details regarding document shredding. Despite admitting  
3 that they know that Plaintiffs have no knowledge regarding any alleged document shredding, Mr.  
4 Michaels and the Defendants *still* brought this motion, clearly in bad faith. Even if this Motion to  
5 Compel were granted, it is unclear what the Defendants expect the Plaintiffs to do. Plaintiffs cannot  
6 personally be expected to conduct a rumor mill investigation within the Burbank Police Department  
7 or the City Attorney's Office. Nor can Plaintiffs be expected to gather information from a deceased  
8 person. Plaintiffs' attorneys are already conducting an investigation via the discovery process, as  
9 pointed out in the interrogatory response, and will update the response if more information becomes  
10 available.

11 Since Plaintiffs have fully and completely answered each interrogatory with a statement that  
12 they have no knowledge regarding each question asked, this frivolous motion should be denied in  
13 full and sanctions should be ordered against Defendants and their attorney Mr. Michaels.

14 SPECIAL INTERROGATORY NO. 2:

15 IDENTIFY every occasion when anyone from or in the Burbank City Attorney's Office  
16 shred any document.

17 RESPONSE TO SPECIAL INTERROGATORY NO. 2:

18 Objection. Speculation. Foundation. Interrogatory violates Code of Civil Procedure  
19 §2030.060 (d). The responding party does not have personal knowledge sufficient to respond to  
20 this interrogatory and, pursuant to Code of Civil Procedure §2030.220 (c), information from other  
21 "natural persons or organizations" is "equally available to the propounding party." Discovery is  
22 ongoing and the responding party reserves the right to amend this response when more information  
23 becomes known.

24 FACTUAL AND LEGAL REASONS WHY RESPONSE SHOULD NOT BE COMPELLED TO  
25 SPECIAL INTERROGATORY NO. 2:

26 When answering interrogatories, "if the responding party does not have personal knowledge  
27 sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable  
28 and good faith effort to obtain the information by inquiry to other natural persons or organizations,

1 except where the information is equally available to the propounding party.” Cal Code Civ Proc §  
2 2030.220. The “reasonable and good faith effort” generally only obligates the responding party to  
3 provide “information from all sources under his or her control.” Regency Health Servs. v. Superior  
4 Court, (1998) 64 Cal. App. 4th 1496, 1504.<sup>4</sup> As stated above, Plaintiffs have already  
5 acknowledged that they have no personal knowledge in this regard. On the other hand, a  
6 responding party is not under a duty to make inquiry from independent witnesses in order to answer  
7 interrogatories, as the other party is equally able to do so. Holguin v. Superior Court, (1972) 22  
8 Cal. App. 3d 812 at 821. Here, requiring Plaintiffs to conduct an investigation or inquiry of  
9 independent witnesses into an rumored paper shredding scheme at the City Attorney’s Office is well  
10 beyond the scope of Cal Code Civ Proc § 2030.220.

11 At his deposition Plaintiff Karagoisian stated that he did not know specifically where the  
12 document shredding rumors came from, or who spoke about the rumors (other than Sgt. Gunn, who  
13 is deceased). The source of any information was a vague “rumor around the station.” (Exhibit “B”  
14 100:23). Any further inquiry would therefore require a general investigation of independent  
15 witnesses at the Burbank Police Department whose identities are unknown to the Plaintiffs.  
16 Therefore, any information that Plaintiffs could try and track down in the general rumor mill at the  
17 Burbank Police Department would be “equally available to the propounding party.” Cal Code Civ  
18 Proc § 2030.220.<sup>5</sup>

19 Defendants are trying to force Plaintiffs to spend time and money tracking down rumors  
20 about a side-issue in the case so that Defendants attorneys won’t have to. Plaintiffs have no duty to  
21 start such an investigation. (See, for example Holguin v. Superior Court, (1972) 22 Cal. App. 3d  
22 812 at 821: “[Plaintiffs] seem to take the position that the propounding of the interrogatories created  
23 a duty in defendants to start an investigation with the various persons in the coroner's office who  
24 participated in the autopsy and then to answer in accordance with the information thus gathered,

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25  
26 <sup>4</sup>Examples include a party’s lawyer, agents or employees, family members, expert trial witnesses,  
27 etc. See Weil & Brown, *California Practice Guide : Civil Procedure Before Trial* (The Rutter Group  
2009 ¶ 8:1055-8:1059)

28 <sup>5</sup>The information would be more readily available to the propounding party; Plaintiffs should not  
be ordered to personally ask random employees of the Burbank Police Department about rumors and  
other issues relating to the instant matter.

1 even if the facts learned were antagonistic to their trial posture. We know of no principle of  
2 discovery law which thus compels a party not only to prepare his opponent's case, but also to  
3 stipulate away his own.”)

4 Defendants have absolutely no basis for asserting that Plaintiffs know anything more than an  
5 unsubstantiated rumor that the Burbank City Attorney’s Office has a practice of shredding  
6 documents. The document shredding is not an issue alleged in the Complaint. In fact, Plaintiffs  
7 have asserted that they have no information regarding any person who witnessed anyone shred a  
8 document, any documents which were shredded, any person who instructed a person to shred a  
9 document, any person who heard anyone from the City Attorney’s Office give an instruction to  
10 shred a document, any occasion when anyone from or in the Burbank City Attorney’s Office gave  
11 instruction to shred a document, and other details regarding document shredding. Despite admitting  
12 that they know that Plaintiffs have no knowledge regarding any alleged document shredding, Mr.  
13 Michaels and the Defendants *still* brought this motion, clearly in bad faith. Even if this Motion to  
14 Compel were granted, it is unclear what the Defendants expect the Plaintiffs to do. Plaintiffs cannot  
15 personally be expected to conduct a rumor mill investigation within the Burbank Police Department  
16 or the City Attorney’s Office. Nor can Plaintiffs be expected to gather information from a deceased  
17 person. Plaintiffs’ attorneys are already conducting an investigation via the discovery process, as  
18 pointed out in the interrogatory response, and will update the response if more information becomes  
19 available.

20 Since Plaintiffs have fully and completely answered each interrogatory with a statement that  
21 they have no knowledge regarding each question asked, this frivolous motion should be denied in  
22 full and sanctions should be ordered against Defendants and their attorney Mr. Michaels.

23 SPECIAL INTERROGATORY NO. 3:

24 IDENTIFY every person from or in the Burbank City Attorney’s Office who shredded any  
25 document.

26 RESPONSE TO SPECIAL INTERROGATORY NO. 3:

27 Objection. Speculation. Foundation. Interrogatory violates Code of Civil Procedure  
28 §2030.060 (d). The responding party does not have personal knowledge sufficient to respond to

1 this interrogatory and, pursuant to Code of Civil Procedure §2030.220 (c), information from other  
2 “natural persons or organizations” is “equally available to the propounding party.” Discovery is  
3 ongoing and the responding party reserves the right to amend this response when more information  
4 becomes known.

5 FACTUAL AND LEGAL REASONS WHY RESPONSE SHOULD NOT BE COMPELLED TO  
6 SPECIAL INTERROGATORY NO. 3:

7 When answering interrogatories, “if the responding party does not have personal knowledge  
8 sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable  
9 and good faith effort to obtain the information by inquiry to other natural persons or organizations,  
10 except where the information is equally available to the propounding party.” Cal Code Civ Proc §  
11 2030.220. The “reasonable and good faith effort” generally only obligates the responding party to  
12 provide “information from all sources under his or her control.” Regency Health Servs. v. Superior  
13 Court, (1998) 64 Cal. App. 4th 1496, 1504.<sup>6</sup> As stated above, Plaintiffs have already  
14 acknowledged that they have no personal knowledge in this regard. On the other hand, a  
15 responding party is not under a duty to make inquiry from independent witnesses in order to answer  
16 interrogatories, as the other party is equally able to do so. Holguin v. Superior Court, (1972) 22  
17 Cal. App. 3d 812 at 821. Here, requiring Plaintiffs to conduct an investigation or inquiry of  
18 independent witnesses into an rumored paper shredding scheme at the City Attorney’s Office is well  
19 beyond the scope of Cal Code Civ Proc § 2030.220.

20 At his deposition Plaintiff Karagoisian stated that he did not know specifically where the  
21 document shredding rumors came from, or who spoke about the rumors (other than Sgt. Gunn, who  
22 is deceased). The source of any information was a vague “rumor around the station.” (Exhibit “B”  
23 100:23). Any further inquiry would therefore require a general investigation of independent  
24 witnesses at the Burbank Police Department whose identities are unknown to the Plaintiffs.  
25 Therefore, any information that Plaintiffs could try and track down in the general rumor mill at the  
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27 <sup>6</sup>Examples include a party’s lawyer, agents or employees, family members, expert trial witnesses,  
28 etc. See Weil & Brown, *California Practice Guide : Civil Procedure Before Trial* (The Rutter Group  
2009 ¶ 8:1055-8:1059)

1 Burbank Police Department would be “equally available to the propounding party.” Cal Code Civ  
2 Proc § 2030.220.<sup>7</sup>

3 Defendants are trying to force Plaintiffs to spend time and money tracking down rumors  
4 about a side-issue in the case so that Defendants attorneys won’t have to. Plaintiffs have no duty to  
5 start such an investigation. (See, for example Holguin v. Superior Court, (1972) 22 Cal. App. 3d  
6 812 at 821: “[Plaintiffs] seem to take the position that the propounding of the interrogatories created  
7 a duty in defendants to start an investigation with the various persons in the coroner’s office who  
8 participated in the autopsy and then to answer in accordance with the information thus gathered,  
9 even if the facts learned were antagonistic to their trial posture. We know of no principle of  
10 discovery law which thus compels a party not only to prepare his opponent’s case, but also to  
11 stipulate away his own.”)

12 Defendants have absolutely no basis for asserting that Plaintiffs know anything more than an  
13 unsubstantiated rumor that the Burbank City Attorney’s Office has a practice of shredding  
14 documents. The document shredding is not an issue alleged in the Complaint. In fact, Plaintiffs  
15 have asserted that they have no information regarding any person who witnessed anyone shred a  
16 document, any documents which were shredded, any person who instructed a person to shred a  
17 document, any person who heard anyone from the City Attorney’s Office give an instruction to  
18 shred a document, any occasion when anyone from or in the Burbank City Attorney’s Office gave  
19 instruction to shred a document, and other details regarding document shredding. Despite admitting  
20 that they know that Plaintiffs have no knowledge regarding any alleged document shredding, Mr.  
21 Michaels and the Defendants *still* brought this motion, clearly in bad faith. Even if this Motion to  
22 Compel were granted, it is unclear what the Defendants expect the Plaintiffs to do. Plaintiffs cannot  
23 personally be expected to conduct a rumor mill investigation within the Burbank Police Department  
24 or the City Attorney’s Office. Nor can Plaintiffs be expected to gather information from a deceased  
25 person. Plaintiffs’ attorneys are already conducting an investigation via the discovery process, as  
26

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27 <sup>7</sup>The information would be more readily available to the propounding party; Plaintiffs should not  
28 be ordered to personally ask random employees of the Burbank Police Department about rumors and  
other issues relating to the instant matter.

1 pointed out in the interrogatory response, and will update the response if more information becomes  
2 available.

3 Since Plaintiffs have fully and completely answered each interrogatory with a statement that  
4 they have no knowledge regarding each question asked, this frivolous motion should be denied in  
5 full and sanctions should be ordered against Defendants and their attorney Mr. Michaels.

6 SPECIAL INTERROGATORY NO. 4:

7 IDENTIFY every DOCUMENT that was shredded by anyone from or in the Burbank City  
8 Attorney's Office.

9 RESPONSE TO SPECIAL INTERROGATORY NO. 4:

10 Objection. Speculation. Foundation. Interrogatory violates Code of Civil Procedure  
11 §2030.060 (d). The responding party does not have personal knowledge sufficient to respond to  
12 this interrogatory and, pursuant to Code of Civil Procedure §2030.220 (c), information from other  
13 "natural persons or organizations" is "equally available to the propounding party." Discovery is  
14 ongoing and the responding party reserves the right to amend this response when more information  
15 becomes known.

16 FACTUAL AND LEGAL REASONS WHY RESPONSE SHOULD NOT BE COMPELLED TO  
17 SPECIAL INTERROGATORY NO. 4:

18 When answering interrogatories, "if the responding party does not have personal knowledge  
19 sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable  
20 and good faith effort to obtain the information by inquiry to other natural persons or organizations,  
21 except where the information is equally available to the propounding party." Cal Code Civ Proc §  
22 2030.220. The "reasonable and good faith effort" generally only obligates the responding party to  
23 provide "information from all sources under his or her control." Regency Health Servs. v. Superior  
24 Court, (1998) 64 Cal. App. 4th 1496, 1504.<sup>8</sup> As stated above, Plaintiffs have already  
25 acknowledged that they have no personal knowledge in this regard. On the other hand, a  
26

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27 <sup>8</sup>Examples include a party's lawyer, agents or employees, family members, expert trial witnesses,  
28 etc. See Weil & Brown, *California Practice Guide : Civil Procedure Before Trial* (The Rutter Group  
2009 ¶ 8:1055-8:1059)

1 responding party is not under a duty to make inquiry from independent witnesses in order to answer  
2 interrogatories, as the other party is equally able to do so. Holguin v. Superior Court, (1972) 22  
3 Cal. App. 3d 812 at 821. Here, requiring Plaintiffs to conduct an investigation or inquiry of  
4 independent witnesses into an rumored paper shredding scheme at the City Attorney's Office is well  
5 beyond the scope of Cal Code Civ Proc § 2030.220.

6 At his deposition Plaintiff Karagoisian stated that he did not know specifically where the  
7 document shredding rumors came from, or who spoke about the rumors (other than Sgt. Gunn, who  
8 is deceased). The source of any information was a vague "rumor around the station." (Exhibit "B"  
9 100:23). Any further inquiry would therefore require a general investigation of independent  
10 witnesses at the Burbank Police Department whose identities are unknown to the Plaintiffs.  
11 Therefore, any information that Plaintiffs could try and track down in the general rumor mill at the  
12 Burbank Police Department would be "equally available to the propounding party." Cal Code Civ  
13 Proc § 2030.220.<sup>9</sup>

14 Defendants are trying to force Plaintiffs to spend time and money tracking down rumors  
15 about a side-issue in the case so that Defendants attorneys won't have to. Plaintiffs have no duty to  
16 start such an investigation. (See, for example Holguin v. Superior Court, (1972) 22 Cal. App. 3d  
17 812 at 821: "[Plaintiffs] seem to take the position that the propounding of the interrogatories created  
18 a duty in defendants to start an investigation with the various persons in the coroner's office who  
19 participated in the autopsy and then to answer in accordance with the information thus gathered,  
20 even if the facts learned were antagonistic to their trial posture. We know of no principle of  
21 discovery law which thus compels a party not only to prepare his opponent's case, but also to  
22 stipulate away his own.")

23 Defendants have absolutely no basis for asserting that Plaintiffs know anything more than an  
24 unsubstantiated rumor that the Burbank City Attorney's Office has a practice of shredding  
25 documents. The document shredding is not an issue alleged in the Complaint. In fact, Plaintiffs  
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27 <sup>9</sup>The information would be more readily available to the propounding party; Plaintiffs should not  
28 be ordered to personally ask random employees of the Burbank Police Department about rumors and  
other issues relating to the instant matter.

1 have asserted that they have no information regarding any person who witnessed anyone shred a  
2 document, any documents which were shredded, any person who instructed a person to shred a  
3 document, any person who heard anyone from the City Attorney's Office give an instruction to  
4 shred a document, any occasion when anyone from or in the Burbank City Attorney's Office gave  
5 instruction to shred a document, and other details regarding document shredding. Despite admitting  
6 that they know that Plaintiffs have no knowledge regarding any alleged document shredding, Mr.  
7 Michaels and the Defendants *still* brought this motion, clearly in bad faith. Even if this Motion to  
8 Compel were granted, it is unclear what the Defendants expect the Plaintiffs to do. Plaintiffs cannot  
9 personally be expected to conduct a rumor mill investigation within the Burbank Police Department  
10 or the City Attorney's Office. Nor can Plaintiffs be expected to gather information from a deceased  
11 person. Plaintiffs' attorneys are already conducting an investigation via the discovery process, as  
12 pointed out in the interrogatory response, and will update the response if more information becomes  
13 available.

14 Since Plaintiffs have fully and completely answered each interrogatory with a statement that  
15 they have no knowledge regarding each question asked, this frivolous motion should be denied in  
16 full and sanctions should be ordered against Defendants and their attorney Mr. Michaels.

17 SPECIAL INTERROGATORY NO. 5:

18 IDENTIFY every person who heard anyone from or in the Burbank City Attorney's Office  
19 give instruction to shred a document.

20 RESPONSE TO SPECIAL INTERROGATORY NO. 5:

21 Objection. Speculation. Foundation. Interrogatory violates Code of Civil Procedure  
22 §2030.060 (d). The responding party does not have personal knowledge sufficient to respond to  
23 this interrogatory and, pursuant to Code of Civil Procedure §2030.220 (c), information from other  
24 "natural persons or organizations" is "equally available to the propounding party." Discovery is  
25 ongoing and the responding party reserves the right to amend this response when more information  
26 becomes known.

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1 FACTUAL AND LEGAL REASONS WHY RESPONSE SHOULD NOT BE COMPELLED TO  
2 SPECIAL INTERROGATORY NO. 5:

3 When answering interrogatories, “if the responding party does not have personal knowledge  
4 sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable  
5 and good faith effort to obtain the information by inquiry to other natural persons or organizations,  
6 except where the information is equally available to the propounding party.” Cal Code Civ Proc §  
7 2030.220. The “reasonable and good faith effort” generally only obligates the responding party to  
8 provide “information from all sources under his or her control.” Regency Health Servs. v. Superior  
9 Court, (1998) 64 Cal. App. 4th 1496, 1504.<sup>10</sup> As stated above, Plaintiffs have already  
10 acknowledged that they have no personal knowledge in this regard. On the other hand, a  
11 responding party is not under a duty to make inquiry from independent witnesses in order to answer  
12 interrogatories, as the other party is equally able to do so. Holguin v. Superior Court, (1972) 22  
13 Cal. App. 3d 812 at 821. Here, requiring Plaintiffs to conduct an investigation or inquiry of  
14 independent witnesses into an rumored paper shredding scheme at the City Attorney’s Office is well  
15 beyond the scope of Cal Code Civ Proc § 2030.220.

16 At his deposition Plaintiff Karagoisian stated that he did not know specifically where the  
17 document shredding rumors came from, or who spoke about the rumors (other than Sgt. Gunn, who  
18 is deceased). The source of any information was a vague “rumor around the station.” (Exhibit “B”  
19 100:23). Any further inquiry would therefore require a general investigation of independent  
20 witnesses at the Burbank Police Department whose identities are unknown to the Plaintiffs.  
21 Therefore, any information that Plaintiffs could try and track down in the general rumor mill at the  
22 Burbank Police Department would be “equally available to the propounding party.” Cal Code Civ  
23 Proc § 2030.220.<sup>11</sup>

24  
25 <sup>10</sup>Examples include a party’s lawyer, agents or employees, family members, expert trial  
26 witnesses, etc. See Weil & Brown, *California Practice Guide : Civil Procedure Before Trial* (The  
Rutter Group 2009 ¶ 8:1055-8:1059)

27 <sup>11</sup>The information would be more readily available to the propounding party; Plaintiffs should  
28 not be ordered to personally ask random employees of the Burbank Police Department about rumors and  
other issues relating to the instant matter.

1 Defendants are trying to force Plaintiffs to spend time and money tracking down rumors  
2 about a side-issue in the case so that Defendants attorneys won't have to. Plaintiffs have no duty to  
3 start such an investigation. (See, for example Holguin v. Superior Court, (1972) 22 Cal. App. 3d  
4 812 at 821: "[Plaintiffs] seem to take the position that the propounding of the interrogatories created  
5 a duty in defendants to start an investigation with the various persons in the coroner's office who  
6 participated in the autopsy and then to answer in accordance with the information thus gathered,  
7 even if the facts learned were antagonistic to their trial posture. We know of no principle of  
8 discovery law which thus compels a party not only to prepare his opponent's case, but also to  
9 stipulate away his own.")

10 Defendants have absolutely no basis for asserting that Plaintiffs know anything more than an  
11 unsubstantiated rumor that the Burbank City Attorney's Office has a practice of shredding  
12 documents. The document shredding is not an issue alleged in the Complaint. In fact, Plaintiffs  
13 have asserted that they have no information regarding any person who witnessed anyone shred a  
14 document, any documents which were shredded, any person who instructed a person to shred a  
15 document, any person who heard anyone from the City Attorney's Office give an instruction to  
16 shred a document, any occasion when anyone from or in the Burbank City Attorney's Office gave  
17 instruction to shred a document, and other details regarding document shredding. Despite admitting  
18 that they know that Plaintiffs have no knowledge regarding any alleged document shredding, Mr.  
19 Michaels and the Defendants *still* brought this motion, clearly in bad faith. Even if this Motion to  
20 Compel were granted, it is unclear what the Defendants expect the Plaintiffs to do. Plaintiffs cannot  
21 personally be expected to conduct a rumor mill investigation within the Burbank Police Department  
22 or the City Attorney's Office. Nor can Plaintiffs be expected to gather information from a deceased  
23 person. Plaintiffs' attorneys are already conducting an investigation via the discovery process, as  
24 pointed out in the interrogatory response, and will update the response if more information becomes  
25 available.

26 Since Plaintiffs have fully and completely answered each interrogatory with a statement that  
27 they have no knowledge regarding each question asked, this frivolous motion should be denied in  
28 full and sanctions should be ordered against Defendants and their attorney Mr. Michaels.

1 SPECIAL INTERROGATORY NO. 6:

2 IDENTIFY every occasion when anyone from or in the Burbank City Attorney's Office gave  
3 instruction to shred any document.

4 RESPONSE TO SPECIAL INTERROGATORY NO. 6:

5 Objection. Speculation. Foundation. Interrogatory violates Code of Civil Procedure  
6 §2030.060 (d). The responding party does not have personal knowledge sufficient to respond to  
7 this interrogatory and, pursuant to Code of Civil Procedure §2030.220 (c), information from other  
8 "natural persons or organizations" is "equally available to the propounding party." Discovery is  
9 ongoing and the responding party reserves the right to amend this response when more information  
10 becomes known.

11 FACTUAL AND LEGAL REASONS WHY RESPONSE SHOULD NOT BE COMPELLED TO  
12 SPECIAL INTERROGATORY NO. 6:

13 When answering interrogatories, "if the responding party does not have personal knowledge  
14 sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable  
15 and good faith effort to obtain the information by inquiry to other natural persons or organizations,  
16 except where the information is equally available to the propounding party." Cal Code Civ Proc §  
17 2030.220. The "reasonable and good faith effort" generally only obligates the responding party to  
18 provide "information from all sources under his or her control." Regency Health Servs. v. Superior  
19 Court, (1998) 64 Cal. App. 4th 1496, 1504.<sup>12</sup> As stated above, Plaintiffs have already  
20 acknowledged that they have no personal knowledge in this regard. On the other hand, a  
21 responding party is not under a duty to make inquiry from independent witnesses in order to answer  
22 interrogatories, as the other party is equally able to do so. Holguin v. Superior Court, (1972) 22  
23 Cal. App. 3d 812 at 821. Here, requiring Plaintiffs to conduct an investigation or inquiry of  
24 independent witnesses into an rumored paper shredding scheme at the City Attorney's Office is well  
25 beyond the scope of Cal Code Civ Proc § 2030.220.

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26  
27 <sup>12</sup>Examples include a party's lawyer, agents or employees, family members, expert trial  
28 witnesses, etc. See Weil & Brown, *California Practice Guide : Civil Procedure Before Trial* (The  
Rutter Group 2009 ¶ 8:1055-8:1059)

1 At his deposition Plaintiff Karagoisian stated that he did not know specifically where the  
2 document shredding rumors came from, or who spoke about the rumors (other than Sgt. Gunn, who  
3 is deceased). The source of any information was a vague "rumor around the station." (Exhibit "B"  
4 100:23). Any further inquiry would therefore require a general investigation of independent  
5 witnesses at the Burbank Police Department whose identities are unknown to the Plaintiffs.  
6 Therefore, any information that Plaintiffs could try and track down in the general rumor mill at the  
7 Burbank Police Department would be "equally available to the propounding party." Cal Code Civ  
8 Proc § 2030.220.<sup>13</sup>

9 Defendants are trying to force Plaintiffs to spend time and money tracking down rumors  
10 about a side-issue in the case so that Defendants attorneys won't have to. Plaintiffs have no duty to  
11 start such an investigation. (See, for example Holguin v. Superior Court, (1972) 22 Cal. App. 3d  
12 812 at 821: "[Plaintiffs] seem to take the position that the propounding of the interrogatories created  
13 a duty in defendants to start an investigation with the various persons in the coroner's office who  
14 participated in the autopsy and then to answer in accordance with the information thus gathered,  
15 even if the facts learned were antagonistic to their trial posture. We know of no principle of  
16 discovery law which thus compels a party not only to prepare his opponent's case, but also to  
17 stipulate away his own.")

18 Defendants have absolutely no basis for asserting that Plaintiffs know anything more than an  
19 unsubstantiated rumor that the Burbank City Attorney's Office has a practice of shredding  
20 documents. The document shredding is not an issue alleged in the Complaint. In fact, Plaintiffs  
21 have asserted that they have no information regarding any person who witnessed anyone shred a  
22 document, any documents which were shredded, any person who instructed a person to shred a  
23 document, any person who heard anyone from the City Attorney's Office give an instruction to  
24 shred a document, any occasion when anyone from or in the Burbank City Attorney's Office gave  
25 instruction to shred a document, and other details regarding document shredding. Despite admitting  
26

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27 <sup>13</sup>The information would be more readily available to the propounding party; Plaintiffs should  
28 not be ordered to personally ask random employees of the Burbank Police Department about rumors and  
other issues relating to the instant matter.

1 that they know that Plaintiffs have no knowledge regarding any alleged document shredding, Mr.  
2 Michaels and the Defendants *still* brought this motion, clearly in bad faith. Even if this Motion to  
3 Compel were granted, it is unclear what the Defendants expect the Plaintiffs to do. Plaintiffs cannot  
4 personally be expected to conduct a rumor mill investigation within the Burbank Police Department  
5 or the City Attorney's Office. Nor can Plaintiffs be expected to gather information from a deceased  
6 person. Plaintiffs' attorneys are already conducting an investigation via the discovery process, as  
7 pointed out in the interrogatory response, and will update the response if more information becomes  
8 available.

9 Since Plaintiffs have fully and completely answered each interrogatory with a statement that  
10 they have no knowledge regarding each question asked, this frivolous motion should be denied in  
11 full and sanctions should be ordered against Defendants and their attorney Mr. Michaels.

12 SPECIAL INTERROGATORY NO. 7:

13 IDENTIFY every person from or in the Burbank City Attorney's Office who instructed any  
14 person to shred any document.

15 RESPONSE TO SPECIAL INTERROGATORY NO. 7:

16 Objection. Speculation. Foundation. Interrogatory violates Code of Civil Procedure  
17 §2030.060 (d). The responding party does not have personal knowledge sufficient to respond to  
18 this interrogatory and, pursuant to Code of Civil Procedure §2030.220 (c), information from other  
19 "natural persons or organizations" is "equally available to the propounding party." Discovery is  
20 ongoing and the responding party reserves the right to amend this response when more information  
21 becomes known.

22 FACTUAL AND LEGAL REASONS WHY RESPONSE SHOULD NOT BE COMPELLED TO  
23 SPECIAL INTERROGATORY NO. 7:

24 When answering interrogatories, "if the responding party does not have personal knowledge  
25 sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable  
26 and good faith effort to obtain the information by inquiry to other natural persons or organizations,  
27 except where the information is equally available to the propounding party." Cal Code Civ Proc §  
28 2030.220. The "reasonable and good faith effort" generally only obligates the responding party to

1 provide "information from all sources under his or her control." Regency Health Servs. v. Superior  
2 Court, (1998) 64 Cal. App. 4th 1496, 1504.<sup>14</sup> As stated above, Plaintiffs have already  
3 acknowledged that they have no personal knowledge in this regard. On the other hand, a  
4 responding party is not under a duty to make inquiry from independent witnesses in order to answer  
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6 Cal. App. 3d 812 at 821. Here, requiring Plaintiffs to conduct an investigation or inquiry of  
7 independent witnesses into an rumored paper shredding scheme at the City Attorney's Office is well  
8 beyond the scope of Cal Code Civ Proc § 2030.220.

9 At his deposition Plaintiff Karagoisian stated that he did not know specifically where the  
10 document shredding rumors came from, or who spoke about the rumors (other than Sgt. Gunn, who  
11 is deceased). The source of any information was a vague "rumor around the station." (Exhibit "B"  
12 100:23). Any further inquiry would therefore require a general investigation of independent  
13 witnesses at the Burbank Police Department whose identities are unknown to the Plaintiffs.  
14 Therefore, any information that Plaintiffs could try and track down in the general rumor mill at the  
15 Burbank Police Department would be "equally available to the propounding party." Cal Code Civ  
16 Proc § 2030.220.<sup>15</sup>

17 Defendants are trying to force Plaintiffs to spend time and money tracking down rumors  
18 about a side-issue in the case so that Defendants attorneys won't have to. Plaintiffs have no duty to  
19 start such an investigation. (See, for example Holguin v. Superior Court, (1972) 22 Cal. App. 3d  
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25 <sup>14</sup>Examples include a party's lawyer, agents or employees, family members, expert trial  
26 witnesses, etc. See Weil & Brown, *California Practice Guide : Civil Procedure Before Trial* (The  
Rutter Group 2009 ¶ 8:1055-8:1059)

27 <sup>15</sup>The information would be more readily available to the propounding party; Plaintiffs should  
28 not be ordered to personally ask random employees of the Burbank Police Department about rumors and  
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1 discovery law which thus compels a party not only to prepare his opponent's case, but also to  
2 stipulate away his own.”)

3 Defendants have absolutely no basis for asserting that Plaintiffs know anything more than an  
4 unsubstantiated rumor that the Burbank City Attorney’s Office has a practice of shredding  
5 documents. The document shredding is not an issue alleged in the Complaint. In fact, Plaintiffs  
6 have asserted that they have no information regarding any person who witnessed anyone shred a  
7 document, any documents which were shredded, any person who instructed a person to shred a  
8 document, any person who heard anyone from the City Attorney’s Office give an instruction to  
9 shred a document, any occasion when anyone from or in the Burbank City Attorney’s Office gave  
10 instruction to shred a document, and other details regarding document shredding. Despite admitting  
11 that they know that Plaintiffs have no knowledge regarding any alleged document shredding, Mr.  
12 Michaels and the Defendants *still* brought this motion, clearly in bad faith. Even if this Motion to  
13 Compel were granted, it is unclear what the Defendants expect the Plaintiffs to do. Plaintiffs cannot  
14 personally be expected to conduct a rumor mill investigation within the Burbank Police Department  
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16 person. Plaintiffs’ attorneys are already conducting an investigation via the discovery process, as  
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19 Since Plaintiffs have fully and completely answered each interrogatory with a statement that  
20 they have no knowledge regarding each question asked, this frivolous motion should be denied in  
21 full and sanctions should be ordered against Defendants and their attorney Mr. Michaels.

22 SPECIAL INTERROGATORY NO. 8:

23 IDENTIFY every DOCUMENT that every person from or in the Burbank City Attorney’s  
24 Office instructed to be shredded.

25 RESPONSE TO SPECIAL INTERROGATORY NO. 8:

26 Objection. Speculation. Foundation. Interrogatory violates Code of Civil Procedure  
27 §2030.060 (d). The responding party does not have personal knowledge sufficient to respond to  
28 this interrogatory and, pursuant to Code of Civil Procedure §2030.220 (c), information from other

1 “natural persons or organizations” is “equally available to the propounding party.” Discovery is  
2 ongoing and the responding party reserves the right to amend this response when more information  
3 becomes known.

4 FACTUAL AND LEGAL REASONS WHY RESPONSE SHOULD NOT BE COMPELLED TO  
5 SPECIAL INTERROGATORY NO. 8:

6 When answering interrogatories, “if the responding party does not have personal knowledge  
7 sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable  
8 and good faith effort to obtain the information by inquiry to other natural persons or organizations,  
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1 Proc § 2030.220.<sup>17</sup>

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17 shred a document, any occasion when anyone from or in the Burbank City Attorney's Office gave  
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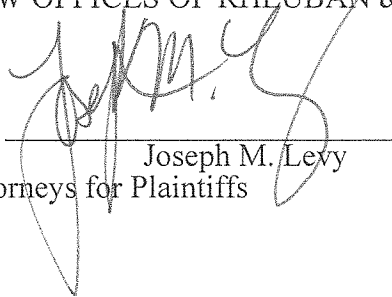
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5  
6 Dated: June 15, 2010

LAW OFFICES OF RHEUBAN & GRESEN

7  
8 By:   
9 Joseph M. Levy  
Attorneys for Plaintiffs

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles. I am over the age of eighteen and am  
4 not a party to the within action. My business address is 15910 Ventura Boulevard, Suite 1610,  
Encino, California 91436.

5 On June 16, 2010, the foregoing document, described as **Plaintiffs' Opposition to**  
6 **Defendant Burbank's Separate Statement in Support of Motion to Compel; [Proposed]**  
7 **Referee Recommendation; [Proposed] Order Approving/Adopting Discovery Referee's**  
8 **Recommendation in Opposition to Motion to Compel Plaintiffs to Further Respond to**  
9 **Defendant's First Set of Special Interrogatories** on the interested parties, through their respective  
attorneys of record in this action by placing a true copy thereof enclosed in sealed envelopes  
addressed as follows:

9 Lawrence A. Michaels  
10 Mitchell Silberberg & Knupp LLP  
11 11377 West Olympic Boulevard  
Los Angeles, CA 90064-1683  
email: LAM@msk.com  
Facsimile: (310) 312-3100

Linda Miller Savitt, Esq.  
Ballard Rosenberg Golper & Savitt, LLP  
500 North Brand Boulevard, Twentieth Floor  
Glendale, California 91203  
email: lsavitt@brgslaw.com  
Facsimile: (818) 506-4827

12 Carol Ann Humiston  
13 Senior Assistant City Attorney  
14 Office of the City Attorney  
275 East Olive Avenue,  
Burbank, California 91510-6459  
email: chumiston@ci.burbank.ca.us  
15 Facsimile: (818) 238-5724

Kristin Pelletier  
Burke, Williams & Sorenson  
444 S. Flower Street, Suite 2400  
Los Angeles, CA 90071  
email: KPelletier@bwslaw.com  
Facsimile: (213) 236-2700

16 XX **BY MAIL:** By placing a true copy thereof enclosed in a sealed envelope(s)  
17 addressed as above, and placing each for collection and mailing on that date following  
18 ordinary business practices. I am "readily familiar" with this business's practice for  
19 collecting and addressed as above, and placing each for collection and mailing on that  
20 date following ordinary business practices. I am "readily familiar" with this  
business's practice for collecting and processing correspondence for mailing. On the  
same day that correspondence is placed for collection and mailing, it is deposited in  
the ordinary course of business with the U.S. mail Postal Service in Los Angeles,  
California, in a sealed envelope with postage fully prepaid.

21  
22 XX **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an  
23 agreement of the parties to accept service by e-mail or electronic transmission, I  
24 caused the documents to be sent to the person(s) at the e-mail address listed above.  
My electronic notification address is dj@rglawyers.com. I did not receive, within a  
reasonable time after the transmission, any electronic message or other indication that  
the transmission was unsuccessful. A copy of the electronic transmission showing the  
time of service is attached.

25  
26 XX **STATE:** I declare under penalty of perjury under the laws of the State of California  
that the above is true and correct.

27 EXECUTED on June 16, 2010, at Encino, California.

28  
\_\_\_\_\_  
Daphne Johnson